STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner

v **File No. 122840-001**

Blue Cross Blue Shield of Michigan
Respondent

Issued and entered
this 4th day of January 2012
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On August 12, 2011, XXXXX, authorized representative of XXXXX(Petitioner), filed a request with the Commissioner of Financial and Insurance Regulation for an external review under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*. The Commissioner reviewed the request and accepted it on August 19, 2011.

The Commissioner immediately notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and asked for the information it used to make its adverse determination. The Commissioner received BCBSM's response on August 30, 2011.

The issue in this external review can be decided by a contractual analysis. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in the BCBSM *Community Blue Group Benefits Certificate* (the certificate) as amended by *Rider HCR-PCB-2 Health Care Reform - Preventive Care Benefits* (the preventive care rider) and *Rider CBD $2500-P Community Blue Deductible Requirement for Panel Services* (the deductible rider).

On December 27, 2010, the Petitioner received medical services that included a colonoscopy, an upper gastrointestinal endoscopy, and anesthesiology and laboratory services. BCBSM paid its full approved amount for the colonoscopy but applied the approved amount for the endoscopy and other services to the Petitioner's deductible.

The Petitioner appealed BCBSM's decision to apply the approved amounts for the endoscopy and the anesthesia and laboratory services to the $2,500.00 deductible for panel services. BCBSM held a managerial-level conference and at the conclusion of the internal grievance process issued a final adverse determination dated May 26, 2011, upholding its initial decision.

III. ISSUE

Did BCBSM correctly process the claims for the services the Petitioner received on December 27, 2010?

IV. ANALYSIS

Petitioner's Argument

The Petitioner believes that BCBSM is required to pay the approved amount for all of the medical services received on December 27, 2010, and not apply any amount to the deductible for panel services because the services were preventive care and not subject to cost-sharing requirements pursuant to the federal Patient Protection and Affordable Care Act.

BCBSM's Argument

BCBSM's final adverse determination states:

> You are covered under the *Community Blue Group Benefits Certificate. Section* 2: *What You Must Pay* (Page 2.1) explains the deductible and copayments you must pay each calendar year.
>
> *Riders CBD $2500-P, CBC 20%-P, and CB-CM-P $3000* amend the aforementioned Certificate to increase your annual deductible, copayment requirement, and copayment maximum for most covered panel services. Specifically, you are responsible for an annual deductible of $2,500 for one member or $5,000 per family (when two or more members are covered under your contract) for panel providers. After the annual deductible is met, you are responsible for a 20 percent coinsurance requirement for most covered services by panel providers, until your annual out-of-pocket expense for such copayment equals a maximum of $3,000 for one member or $6,000 for the family.

BCBSM states the endoscopy and anesthesia and laboratory services were subject to the panel services deductible because they are not listed as preventive services.

Commissioner's Review

The certificate (pp. 4.21 - 4.23) lists the following preventive care services:

> **Preventive Care Services**
>
> **We pay for the preventive care services listed below, along with the related reading and interpretation of your test results, only when rendered by panel providers. . . .**
>
> **Covered services are subject to a combined maximum of $250 per member, per calendar year. Copayments are not required for these services.**
>
> - Health Maintenance Examination
> - Flexible Sigmoidoscopy Examination
> - Gynecological Examination
> - Routine Pap Smear
> - Fecal Occult Blood Screening
> - Well-Baby and Child Care Visits
> - Immunizations
> - Prostate Specific Antigen Screening
> - Routine Laboratory and Radiology Services
>   - Chemical profile
>   - Complete blood count or any of its components
>   - Urinalysis
>   - Chest X-ray
>   - EKG
>   - Cholesterol testing

The preventive care rider amended the certificate to remove the $250.00 annual dollar maximum for preventive care benefits. It also added adult immunizations and colonoscopy services to the list of preventive care services that are covered without any cost-sharing.

The deductible rider imposes a $2,500.00 deductible for panel services each calendar year but the deductible does not apply to preventive care services. Since an endoscopy (and related anesthesia and laboratory services) is not listed as a preventive service, it is subject to the panel services deductible. No information was provided to show that the Petitioner had met the panel deductible for the 2010 calendar year. Therefore, BCBSM was correct to apply the approved amount for the endoscopy to the panel deductible.

The Commissioner concludes and finds that BCBSM correctly applied the terms of the certificate and riders when it processed the claims for the Petitioner's December 27, 2010, endoscopy and anesthesia and laboratory services.

V. ORDER

Blue Cross Blue Shield of Michigan's final adverse determination dated May 26, 2011, is upheld.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

R. Kevin Clinton
Commissioner